

1 Gavin Kogan (CA Bar No. 201564)  
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3 Kogan & Associates, LLC  
4 147 S. River Street, Ste 234-A  
5 Santa Cruz, CA 95060  
(408) 361-8214 (telephone)  
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6 Attorneys for Plaintiff

7  
8 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

9 JASON O. WATSON )  
10 Plaintiff, ) **PLAINTIFF'S MOTION**  
11 vs. ) **FOR ENTRY OF DEFAULT**  
12 ) **AGAINST DEFENDANT**  
13 ROLLIN R. HEASSLER )  
14 Defendant. ) CASE NO. CV 08-01851 JCS  
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COMES NOW, Plaintiff JASON O. WATSON, who moves the Clerk to enter a default against Defendant ROLLIN R. HEASSLER pursuant to Federal Rule of Civil Procedure 55(a) on the basis that the record in this case demonstrates that there has been a failure to plead or otherwise defend. In support of this motion, Plaintiff files herewith his Brief in Support of his Motion for Entry of Default.

WHEREFORE, Plaintiff respectfully requests that his Motion for Entry of Default against Defendant be granted and that he be awarded any additional relief the Court deems proper.

{Signature on following page.}

1 This 13<sup>th</sup> day of May, 2008.

2 Respectfully submitted,

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4  
5 Gavin Kogan (CA Bar No. 201564)  
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8 147 S. River Street, Ste 234-A  
9 Santa Cruz, CA 95060  
(408) 361-8214 (telephone)  
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10 Attorneys for Plaintiff

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12  
13 **CERTIFICATE OF SERVICE**

14 I certify that I have this day served a copy of the following:

15 PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT AGAINST DEFENDANT  
16 upon all parties to this matter by depositing a copy of same in the U.S. mail, proper postage  
17 prepaid, addressed as follows:

18  
19 Mr. Rollin R. Heassler

20  
21 612 Akron Street

22  
23 Mountain View, CA 94043

24 {Signature on following page.}

1 This 13<sup>th</sup> day of May, 2008.

2 Respectfully submitted,

3  
4  
5 Gavin Kogan (CA Bar No. 201564)  
6 Email: [gkogan@mac.com](mailto:gkogan@mac.com)  
7 Kogan & Associates, LLC  
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10 Attorneys for Plaintiff

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7 Attorneys for Plaintiff

8  
9 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

10 JASON O. WATSON )  
11 Plaintiff, ) **PLAINTIFF'S BRIEF IN SUPPORT**  
12 vs. ) **OF MOTION FOR ENTRY OF**  
13 ) **DEFAULT AGAINST DEFENDANT**  
14 ROLLIN R. HEASSLER )  
15 Defendant. ) CASE NO. CV 08-01851 JCS  
16 )

17 COMES NOW, Plaintiff JASON O. WATSON, and submits this, his Brief in Support of his  
18 Motion for Entry of Default Against Defendant ROLLIN R. HEASSLER and shows the  
19 Court as follows:

20  
21 **STATEMENT OF FACTS**

22 A Complaint was filed in this matter on April 7, 2008, and service of process was  
23 had on Defendant Rollin R. Heassler on April 8, 2008. (Affidavit of Gavin Kogan, ¶ 2  
24 attached as Exhibit 1; Return of Service – Rollin R. Heassler, attached as Exhibit 2). More  
25 than twenty (20) days have elapsed since Defendant Heassler was served in this action, and  
26 Defendant Heassler has failed to plead or otherwise defend as provided by the Federal Rules  
27 of Civil Procedure. (Affidavit of Gavin Kogan, ¶ 3).

## **ARGUMENT AND CITATION OF AUTHORITY**

Federal Rule of Civil Procedure 12(a)(1) provides that “[u]nless a different time is prescribed in a statute of the United States, a defendant shall serve an answer . . . within 20 days after being served with the summons and complaint.” Since Defendant Heassler was served with the summons and complaint on April 8, 2008, at 7:45 p.m., he was required to file and serve an answer on or before April 29, 2008. As of the date of the filing of this motion, Defendant Heassler has failed to file an answer or any other responsive pleadings in this case.

Federal Rule of Civil Procedure 55(a) provides that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party’s default.” As demonstrated by the Affidavit of Gavin Kogan filed herewith, the Return of Service filed herewith, and the docket in this case, Defendant Heassler has failed to timely file an answer or any other responsive pleadings after being served with the summons and complaint. Accordingly, Plaintiff is entitled to the entry of a default against Defendant Heassler.

## CONCLUSION

Plaintiff respectfully requests that his Motion for Entry of Default against Defendant Heassler be granted and that he be awarded any additional relief the Court deems proper.

{Signature on following page.}

1 This 13<sup>th</sup> day of May, 2008.

2 Respectfully submitted,

3  
4  
5 Gavin Kogan (CA Bar No. 201564)  
6 Email: gkogan@mac.com  
7 Kogan & Associates, LLC  
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10 (408) 361-8214 (telephone)  
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12 Attorneys for Plaintiff

13  
14 **CERTIFICATE OF SERVICE**

15 I certify that I have this day served a copy of the following:

16  
17 PLAINTIFF'S BRIEF IN SUPPORT OF

18 MOTION FOR ENTRY OF DEFAULT AGAINST DEFENDANT

19 upon all parties to this matter by depositing a copy of same in the U.S. mail, proper postage  
20 prepaid, addressed as follows:

21 Rollin R. Heassler

22 612 Akron Street

23 Mountain View, California 94043

24 This 13<sup>th</sup> day of May, 2008.

25 Respectfully submitted,

26  
27  
28 Gavin Kogan (CA Bar No. 201564)  
Email: gkogan@mac.com  
Kogan & Associates, LLC  
147 S. River Street, Ste 234-A  
Santa Cruz, CA 95060  
(408) 361-8214 (telephone)  
(408) 907-4143 (facsimile)  
Attorneys for Plaintiff

**Exhibit 1**

**AFFIDAVIT OF GAVIN KOGAN IN SUPPORT OF MOTION FOR ENTRY  
OF DEFAULT AGAINST ROLLIN R. HEASSLER**

I, Gavin Kogan, declare under penalty of perjury that the following facts are true to the best of my information and belief:

1. I am the attorney for the Plaintiff in this action.
2. A Complaint was filed in this matter on April 7, 2008, and service of process was had on Defendant Rollin Heassler on April 8, 2008.
3. More than twenty (20) days have elapsed since Defendant Heassler was served in this action, and Defendant Heassler has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure.

This 13<sup>th</sup> day of May, 2008.

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GAVIN KOGAN  
Attorney for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Gavin Kogan, 201564 GAVIN KOGAN & ASSOCIATES 147 S. River St. SANTA CRUZ, CA 95060		TELEPHONE: (831) 429-1122	FOR COURT USE ONLY
ATTORNEY FOR (Name): Plaintiff Insert name of court, judicial district or branch court, if any.		Ref. No. or File No. Watson	FILED
United States District Court 280 S. First St. #2112 San Jose, CA 95113-3008		2008 APR 11 P 2:01	
PLAINTIFF: Jason O. Watson		RICHARD W. WIEKING CLERK U.S. DISTRICT COURT NO. DIST. OF CA. S.J.	
DEFENDANT: Rollin R. Heassler			
PROOF OF SERVICE	DATE:	TIME:	DEPT/DIV:
			CASE NUMBER: C08 01851 JCS

1. At the time of service I was a citizen of the United States, over 18 years of age and not a party to this action, and I served copies of: Complaint, Summons, Civil Case Cover Sheet

2. Party Served: Rollin R. Heassler

3. Person Served: party in item 2

4. Date & Time of Delivery: 4/8/2008 7:45 PM

5. Address, City and State: 612 Akron Street  
Mountain View, CA 94043

6. Manner of Service: Personal Service - By personally delivering copies.

BY FAX

Fee for Service: \$ 95.00

Registered California process server.  
County: SANTA CLARA  
Registration No.: 1145

Helen Melendez Vela  
One Legal - 194-Marin  
504 Redwood Blvd #223  
Novato, CA 94947  
415-491-0606

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct and that this declaration was executed on 4/10/2008 at Oakland, California.

Signature:

(Signature)

Helen Melendez Vela

FF# 6660212